

# REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, May, 1955

D. D. WATSON, Commissioner

## Have Your License Renewed On Time

### Instructions for Annual Renewal; Follow Them and Avoid Cash Penalty or Delay

Your official license renewal application form will be mailed to you from Sacramento late in May. Wait for this official form and use it to renew. If not received by June 10th, get form from one of division's offices.

To avoid penalty, renewal applications and proper fees must be in the mail and postmarked not later than June 30th. Renewals postmarked July 1st, or later, require a penalty fee. **NO EXCEPTIONS!**

Read the instructions on the renewal application carefully. Make sure application is complete and the proper fee is attached before mailing.

If name or address is changed, show change on renewal application, and indicate in space provided for that purpose whether change is to be effective immediately, or as of July 1, 1955.

**IMPORTANT!** Enclose extra \$1 fee for each license involving the change of address or name. Salesmen—if you are changing employing brokers as of July 1st, send extra \$1 fee.

Brokers and salesman—both sign the salesman renewal form. To avoid delay, mail salesman renewals and fees in same envelope with employing broker's. A salesman license cannot be issued until the salesman's employing broker's license is renewed.

Do not mail currency. Pay fees by money order or check. If currency is lost, it is your loss, and in addition you may have to pay a penalty for late renewal. Make checks and money orders payable to State Division of Real Estate.

Checks—if your check is returned by the bank unhonored for any reason, you must pay a double renewal fee, unless the valid fee is mailed and postmarked prior to midnight, June 30th.

Many renewal applications are received just before the June 30th deadline. Therefore, all licenses cannot be issued to reach licensees by July 1st. Continue to operate on the old license if you made proper renewal and paid fee on time.

Inactive brokers—to keep your right to reinstate your license, you must file renewal application and remit the full renewal fee. You will receive an official form in the mail. Your check mark in the space provided for the purpose will indicate that you want to remain inactive. Your inactive license certificate will be issued and you will retain your right to become active any time during the 1955-56 license year.

Inactive salesmen—you must also file renewal form and pay the full fee. If you want your license to remain inactive, make a check mark in the space provided on the form. Where the salesman license is to remain inactive, the renewal application need not be signed by a broker. If you do not receive a renewal form by June 10th, obtain one at any division office.

**IMPORTANT REMINDER:** There is a \$1 charge in addition to the renewal fee for any change of name, address or employing broker even though the change is made as of July 1st. (Applies also to "inactive" licenses.) Example: Broker changes address July 1st. Fee—\$5 for renewal plus \$1 for change. Each salesman in his employ would remit \$2 for renewal plus \$1 for change of address on 1955-56 license.

## EDITORIAL

### Newspaper Publicity

Some rather prominent real estate brokers in various sections of the State have been the objects of unpleasant newspaper publicity in recent weeks, stemming from the filing of accusations against their licenses by the Real Estate Commissioner.

All should understand that this publicity was not instigated nor encouraged by the Commissioner's office. However, when an accusation is filed against a licensee, every alleged violation must be set forth in the accusation.

The accusation is not only sent to the licensee involved, but by law it also becomes a public record and must be kept available for inspection by anyone who cares to do so. Notes of all subsequent proceedings in connection with an accusation also become public information and must be made available to public inspection upon request, just as are the records in a county clerk's office relating to pending civil and criminal actions. Names of the parties are necessarily a part of the record.

Enterprising news reporters achieve success by unearthing newsworthy information, as a real estate broker or salesman achieves success by searching out prospects.

We do not like to see publicity which reflects upon the actions of anyone in the real estate industry, but there is nothing the Commissioner can do to prevent it even if he wanted to.

The Commissioner takes every opportunity to point out that the filing of an accusation against a licensee does not establish the licensee as guilty of wrongdoing. The licensee is presumed innocent of infraction of the law until a hearing officer, independent of the

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**REAL ESTATE BULLETIN**

Sacramento, May, 1955

Published Bimonthly by the  
**DIVISION OF REAL ESTATE**

STATE OF CALIFORNIA  
GOODWIN J. KNIGHT, Governor

D. D. WATSON  
Real Estate Commissioner

DONALD McCCLURE  
Assistant Commissioner

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MAURICE G. READ      WILLIAM J. DAVIS  
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1021 O Street, Sacramento  
RAY D. WESTCOTT, Chief Deputy, Southern Calif.  
Rm. 310, 541 S. Spring Street, Los Angeles  
HAROLD H. WELLS, Supervising Deputy,  
Licenses (State-wide), Sacramento

MAIN OFFICE—1021 O Street, Sacramento

**NORTHERN DISTRICT OFFICES**

SACRAMENTO—1021 O Street  
Arthur M. Day, Deputy-in-Charge (Sacramento District)  
FRESNO—308 Rowell Building  
John S. McVay, Deputy-in-Charge  
OAKLAND—Room 304, 1744 Broadway  
Marvin H. Wiegman, Deputy-in-Charge  
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Rm. 310, Spring-Arcade Building, 541 S. Spring  
M. R. Griffin, Supervising Deputy  
SAN DIEGO—613 Orpheum Theatre Building  
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LONG BEACH (part-time)—3747 Long Beach Blvd.

**Renew Licenses on Time  
Do Not Mail Cash  
Use Check or Money Order**

**Over Four Million GI Loans**

The Veterans Administration announced that the closing of 53,000 loans guaranteed or insured by VA during February raised the total of loans made since 1944 to 4,004,022, amounting to nearly 28 billion dollars.

Of the total, 3,717,806 were home loans amounting to nearly 27 billion dollars and 67,219 were farm loans for more than \$260,000,000. The remainder represented business loans.

Only 21,000 claims have been paid on home loans—about one half of one percent.

**DISCIPLINARY ACTION—FEBRUARY AND MARCH, 1955**

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to seek a court review. This must usually be done within 30 days after the effective date of the commissioner's decision.

Therefore a list of actions is not published in this *Bulletin* until the period allowed for court appeal has expired; or if an appeal is taken, until a final determination of the court action. A list of persons to whom licenses are denied upon application is not published.

**LICENSES REVOKED DURING FEBRUARY AND MARCH, 1955**

Name	Address	Effective date	Violation
Simpson, Roy B. Real Estate Broker	1603 Turk St., San Francisco	2/ 3/55	Secs. 10176 (e), (i); 10177 (f); Secs. 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations.
Hughes, Theodore dba Theodore Hughes Realty Co. Real Estate Broker	1685 W. Jefferson Blvd., Los Angeles	2/ 8/55	Secs. 10176 (e), (i) & 10177 (f)
Hughes, Theodore dba Modern Mortgage Co. Real Estate Broker	1685 W. Jefferson Blvd., Los Angeles	2/ 8/55	Secs. 10176 (e), (i) & 10177 (f)
Grant, Letha Pearl Real Estate Salesman	7626 MacArthur Blvd., Oakland	2/10/55 (Granted right to restricted license)	Sec. 10177 (f)
Padovano, August Mario Real Estate Salesman	919 Palmito Dr., Millbrae	2/15/55 (Granted right to restricted license)	Secs. 10177 (f) & 10177.5
Roberts, Nora Elizabeth Real Estate Salesman	1472 W. Vernon Ave., Los Angeles	2/16/55 (Granted right to restricted license)	Sec. 10177 (a), (f)
Hawkins, Henry Taylor, Jr. Real Estate Broker	11019 S. Avalon Blvd., Los Angeles	2/16/55 (Granted right to restricted license)	Sec. 10177 (f)
Jermans, Elizabeth Lindsay dba Best Rentals & Real Estate Real Estate Broker	2076 W. Manchester, Los Angeles	2/16/55	Secs. 10137; 10176 (a), (i) & 10177 (d), (f)
McManis, Robert Limited Real Estate Salesman	265 W. MacArthur Blvd., Oakland	2/18/55	Sec. 10155
Houghland, Jesse Frank Real Estate Salesman	1906 W. San Carlos, San Jose	2/21/55 (Granted right to restricted license)	Sec. 10177 (a), (d), (f)
Brazelton, Russell Worth Real Estate Broker	1842 W. 11th Place, Los Angeles	2/25/55 (Granted right to restricted license)	Sec. 10177 (f)
Bohn, Claire F. Real Estate Broker	7462 Lankershim Blvd., North Hollywood	2/24/55	Sec. 10177 (f)
Ochoa, Ernest Felipe dba Ochoa Realty Co. Real Estate Broker	113 N. Rowan Ave., Los Angeles	3/ 1/55	Secs. 10176 (e), (i) & 10177 (f)
Morrison, Zeno Alfred Real Estate Broker Business Opportunity Broker	2011 Lincoln Ave., San Jose	3/ 3/55	Secs. 10177 (f); 10301 (e), (i); 10302 (e); Secs. 2830, 2831 & 2832 of R.E. Comm. Rules and Regulations
Gerrard, William Henry Real Estate Salesman Business Opportunity Salesman	2011 Lincoln Ave., San Jose	3/ 3/55	Secs. 10177 (f); 10301 (e), (i); 10302 (e); Secs. 2830, 2831 & 2832 of R.E. Comm. Rules and Regulations
Pedrotti, Dale Lejeune Real Estate Salesman	1433 Noriega St., San Francisco	3/ 8/55	Sec. 10177 (b), (f)
Reed, Edward Daniel Real Estate Broker	3579 Mission St., San Francisco	3/ 8/55	Sec. 10177 (f)
Griffin, Earl Dennis, Jr. dba Empire Mortgage & Investment Co. Real Estate Broker	3881 S. Western Ave., Los Angeles	3/ 8/55	Sec. 10176 (a), (i), (f)
Walton, John William dba Walton Realty Real Estate Broker	1439 Divisadero St., San Francisco	3/10/55 (Granted right to restricted license)	Secs. 10176 (e), (i); 10177 (f); Secs. 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations
Glissman, Rex Phillip dba Rex Glissman Co. Real Estate Broker Business Opportunity Broker	1550 Market St., San Francisco	3/11/55 (Granted right to restricted licenses which were suspended 4/11/55)	Secs. 10177 (f); 10301 (e); 10302 (e); Secs. 2830, 2831 & 2832 of R.E. Comm. Rules and Regulations
Keeler, Melvin Brock Real Estate Salesman	8819 Beaudine Ave., Los Angeles	3/15/55	Sec. 10177 (b), (f)
Haley, John Otis Real Estate Broker	4404 S. Western Ave., Los Angeles	3/15/55	Secs. 10176 (a), (i) & 10177 (f)
Brady, Leonard Julian dba L. J. Brady Inv. Co. Real Estate Broker	4621 W. Adams Blvd., Los Angeles	3/28/55	Secs. 10176 (i) & 10177 (f)
Sparber, Arthur Louis Real Estate Salesman	8510 Truxton Ave., Los Angeles	3/28/55	Sec. 10177 (b), (f)
James, Edward Carl Member of James Realty Co. Real Estate Broker	1302 W. Santa Barbara, Los Angeles	3/28/55	Secs. 10176 (e), (i) & 10177 (d), (f)
Cody, Andrew John Real Estate Salesman	1122 Santa Barbara St., Santa Barbara	3/29/55	Secs. 10176 (e), (i) & 10177 (f)
King, David Edward dba King Realty Inv. Co. Restricted Real Estate Broker	4718 S. Western Ave., Los Angeles	3/31/55	Secs. 10176 (e), (i) & 10177 (a), (d), (f)
League, Beatrice Restricted Real Estate Broker	2131 S. Orange Dr., Los Angeles	3/31/55	Secs. 10176 (a), (e), (i) & 10177 (d), (f)
Ritter, John Joseph Real Estate Salesman	10712 Sepulveda Blvd., San Fernando	3/31/55	Sec. 10177 (b), (f)

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# Division Reorganization

## Lines of Responsibility Clarified; Commissioner's Policies Defined; Donald McClure Appointed Assistant Real Estate Commissioner

In an effort to further streamline operations of the Division of Real Estate, to pinpoint responsibility, and standardize its procedures, operations and techniques throughout the State, the Commissioner has been doing some reorganizing in line with modern management methods.

Through the first nine months of the current fiscal year, the Division of Real Estate issued over 115,000 licenses of various types, recorded over 46,000 changes of license status, gave over 15,000 examinations; and received filings, investigated and issued Commissioner's Public Reports on more than 2,400 new subdivisions scattered throughout the State.

Each month the Division receives an average of more than 8,000 telephone calls in reference to subdivision and license activities. More than 5,000 people come personally to the Division's several offices each month.

The Division receives 350 to 400 complaints each month, involving 75 to 100 informal and formal hearings.

**It can safely be declared that the Division's activities are at an all-time high and the work load is the heaviest in its history.**

The Commissioner has constantly been working on the Division's organizational structure in the interest of better service to the public and the industry, and at the same time endeavoring to place all operations on an efficient and sound business basis.

**Renew Licenses on Time  
Use Official Forms**

### LICENSES SUSPENDED DURING FEBRUARY AND MARCH, 1955

Name	Address	Effective date and term	Violation
Maranello, Helen Real Estate Broker	3570 Redwood Hwy. 101, San Rafael	2/ 3/55 3 days (stayed for one year)	Secs. 10160; 10162; 10164 & 10177 (f)
Waltner, Louis John dba Waltner Realty Real Estate Broker Business Opportunity Broker	3658 W. Slauson Ave., Los Angeles	2/17/55 90 days (stayed for one year)	Secs. 10176 (i); 10177 (f) & 10302 (e)
Storeby, Carl August Restricted Real Estate Salesman	456 11th St., Richmond	2/14/55 (indefinitely)	Sec. 10156.7
Varble, Kenneth David Real Estate Broker	3021 Foothill Blvd., Oakland	2/25/55 60 days (subject to terms and conditions)	Secs. 10176 (i) & 10177 (d), (f)
Arras, Henry O. dba Arras Realty Real Estate Broker	10342 Garden Grove Blvd., Garden Grove	3/ 9/55 10 days	Secs. 10137; 10176 (i); 10177 (d), (f) & 10302 (d), (e)
Arras, Henry O. Business Opportunity Salesman	10132 Garden Grove Blvd., Garden Grove	3/ 9/55 10 days	Secs. 10137; 10176 (i); 10177 (d), (f) & 10302 (d), (e)

and during this tour served in the China-Burma-India theater; was Chief of Personnel and Administration at Wright Air Force Base, Dayton, Ohio, and legal advisor for General Nathan Twining, then Commanding General of Air Materiel Command and now Chief of Staff, U. S. Air Force.

He was then transferred to Europe and served as Trial Counsel on German war crimes trials, after which he was transferred to General Clay's Board of Review at Frankfurt, Germany, where he reviewed many of the outstanding cases which had been tried before the War Crimes Courts.

He then became legal advisor to the United States Air Force in London and Chief of Claims for the United States Air Force in Europe, which positions he held until he was retired from service in 1952 with the rank of Colonel.

He became associated with the Real Estate Division on May 12, 1953.

#### Enforcement Activities

The Commissioner plans to have more time to work more directly with Chief Deputy Gaylord K. Nye, who is in charge of all enforcement activities in the northern part of the State, and Chief Deputy Ray D. Westcott, who occupies a similar position covering the southern part of the State.

The Real Estate Commissioner acts directly under the Governor with policy advice from the State Real Estate Board appointed by the Governor, and administers affairs of the Real Estate Division through the Assistant Real Estate Commissioner and the Chief Deputies.

License functions for the entire State are centralized in Sacramento under Harold Wells, License Supervising Deputy. There are four district offices in the north, under the supervision of Chief Deputy Gaylord K. Nye—San Francisco, Oakland, Fresno and Sacramento—each with a Deputy-in-Charge and a staff varying in size according to the number of licensees and the size of the area served by the office. A part-time office is located at Bakersfield in the northern area.

The southern part of the State is under the direct supervision of Chief

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# Copies of Agreements

## Delivery to Signers Required; Commission Clause Separate

"When a licensee prepares or has prepared an agreement authorizing or employing such licensee to purchase or sell real estate, or when such licensee secures the signature of any person to any contract pertaining to the sale, purchase, exchange or leasing of real property, he shall deliver a copy of the agreement to the person signing it at the time the signature is obtained."

The paragraph you have just read is Section 10142 of the Real Estate Law, which was amended in 1953 to require the broker or salesman to deliver to the signer a copy of any contract to which he gets a person's signature in connection with a real estate transaction.

### Business Opportunities

There is a similar provision, Section 10263, in the business opportunity section of the law. Therefore, any business opportunity broker or salesman who lists business opportunities and prepares or has prepared and secures signatures to contracts involving the sale, purchase, exchanging or leasing of a business opportunity is required by law to give a copy to the person signing the contract.

Attention is again called to these sections of the law because apparently a number of licensees do not fully understand their obligation to give copies of signed documents. One broker recently wrote that he had just become aware of the requirement to give copies of all such documents, although we happen to know this broker has been in business for many years.

The obligation to give copies extends only to the actual agreement which is signed by the person. Many deposit receipt forms, for instance, set forth the terms of the offer to be signed by the prospective purchaser. Below his signature is an acceptance clause which also contains an agreement to pay a commission.

### Commission Clause

Under these conditions, the amount of commission to be paid by the seller need not be shown on the copy delivered to the buyer, inasmuch as the commission agreement follows the buyer's signature and he does not sub-

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scribe to it. However, a copy of the entire agreement, including the commission arrangement, must be given to the seller, as he subscribes to the entire document.

While on this subject, we are frequently asked if it is not the duty of the broker to disclose to the buyer the amount of the commission involved in the deal. The agreement between the broker and the seller regarding compensation for services is a matter between them, and is not necessarily the concern of the buyer. Actually, the commission agreement could be by entirely separate agreement, or it can be arranged for in the listing contract, which it usually is.

On the usual deposit receipt form, therefore, it is not necessary to insert the amount of commission on the form before the purchaser signs his offer, as it is not a part of the agreement to which he subscribes.

**Inactive Licenses  
Renewal Fees Same  
as for Active Licenses**

## Division Reorganization

(Cont. from Page 187, Col. 3)

Deputy Ray D. Westcott, with a large office and staff at Los Angeles, and a smaller office and staff at San Diego. In addition, there are part-time offices in San Bernardino and Long Beach.

The Commissioner has just completed manualizing all operations of the Division, and plans to present its organization chart in a future issue of the *Bulletin*, to try to give all licensees and subdividers a clear picture as to just how the Division functions.

## Governor Knight Reappoints Robbins to State Board

Governor Goodwin J. Knight, on April 21st, announced the reappointment of Curtis M. Robbins, Stockton, as member of the State Real Estate Board for a new term ending January 15, 1959. Mr. Robbins was originally appointed to the board in 1947.

Curtis Robbins is widely known in California real estate circles. A native of Stockton, he went into the real estate and insurance business in that city in the spring of 1920. He has long been active in civic affairs as well as business organizations. He is a past president of the Stockton Realty Board, the Stockton Kiwanis Club, the Stockton Insurance Exchange and the Stockton Chamber of Commerce.

Mr. Robbins is a past regional vice president of CREA and also an honorary director for life of CREA; last year he served as chairman of its legislative committee. He is past first vice commander of Karl Ross Post No. 16, American Legion, and past master of all Scottish Rite bodies of Stockton. He is also a director of the Union Safe Deposit Bank and the Stockton Land Loan and Building Association; and is a member of the Stockton Golf and Country Club, the Yosemite Club and the Commonwealth Club.

Mr. and Mrs. Robbins have two sons, both associated with their father in his business. One son, Richard M., was president of the Stockton Realty Board last year; the other, Curtis R., is presently president of the Stockton Multiple Listing Bureau.

## Pocket Identification Card

There will be a slight change in the small pocket cards issued to all licensees with their 1955-56 licenses. For real estate brokers, the new cards will bear the wording "REAL ESTATE BROKER LICENSE IDENTIFICATION CARD" and the further wording "COPY—Not a Valid License." With appropriate changes in designations, similar wording will be used on pocket cards for other licenses issued by the Real Estate Commissioner.

## To Earn the Commission, You Have to Make the Sale

*"He stole my prospect, and I want to make a complaint."*

Frequently, the commissioner's deputies hear this charge. The complaining broker is highly indignant because another agent has contacted a prospect to whom he has been showing properties, and has been successful in selling the prospect. Sometimes the prospect has been sold one of the very properties the complaining broker had shown him.

Questioning often reveals that both brokers had an open listing on the property. Perhaps other brokers also held open listings. The complainant accuses the successful broker of violating the license law, unethical practice, deceit and sometimes other things.

Let's analyze the situation and face it. **No one "owns" a prospect or has the exclusive right to work on a prospect.** When a number of brokers have an open listing on a home, for instance, the broker, who first gets the prospect signed on the dotted line of the sales agreement and gets the seller's acceptance, probably has made the deal.

### Close the Deal

The mere fact that you have shown a certain property to a certain prospect gives you little advantage if you don't close the deal. It is always "open season" on prospects. If this were not so, sales ability and competence would count for very little in the business.

The broker who complained may have failed to make the sale because of several reasons. Perhaps he didn't know his property. Perhaps he did not inspire confidence. Perhaps he was too timid in closing. He may have been over-enthusiastic, under-enthusiastic, or maybe made little misrepresentations which the prospect detected.

Of course, if you have an exclusive right to sell listing, you are afforded certain protection during the term of the listing if you use due diligence. Otherwise, the broker who has the necessary skill and sales ability may take the deal right out from under your nose—and you have no legitimate complaint.

## Making Statements Without Being Sure of Facts Positive Assertions Without Information Warranting Them May Be Fraud

From time to time, we have cautioned brokers and salesmen about becoming overly enthusiastic, and carelessly making positive statements without the facts to back them up. One broker recently lost his license because of this. He appealed to the courts, but was not successful in his attempt to have the Commissioner's decision set aside.

### License Applications Must Be Complete in All Details

Many brokers sponsoring applicants for original salesman license in their employ make it a point to scan the application very carefully before signing and forwarding it to the Division of Real Estate. After all, a broker, who signs the application as the prospective employer, is certifying that he knows the applicant is honest, truthful and of good reputation. This circumstance alone justifies him in reviewing most carefully the applicant's background as revealed by his answers to items in the application.

**The broker should also assure himself that the application form is filled out completely in all details and signed by the applicant personally.** It is surprising to note the number of applications which come to the Division incompletely filled out, unsigned or unaccompanied by the required fee. This means extra correspondence and delay in scheduling the examination and eventual issuance of license.

Also to avoid delay, the broker should make sure that the application is made on the form now in use, which contains the following note regarding previous violations of law by the applicant. *"All violations of law, without exception, whether misdemeanor or felony, must be reported specifically including traffic violations and any matters which were subsequently dismissed under Section 1203.4 of the Penal Code of the State of California (change of plea after completing probation), or under a similar provision of law in this or any other state. Give full details on page 2 of this application, or make a full list on separate piece of paper."*

**NOTE:** If you have obsolete applications on hand, destroy them and send for current forms.

In this case, the broker was attempting to get a loan for a builder. He told the prospective lender that the builder had an excellent reputation, was a first-class builder, was financially responsible, and that there was ample security for the loan. He also stated that certain loan commitments had already been made by financial institutions, thus insuring that the lender would be repaid.

### Reputation Was Bad

It developed upon investigation that the builder had a reputation for poor work, and his credit record was bad. In this instance he was merely buying the land on contract and did not have title to the property. While loan companies had looked over the property, none apparently had made loan commitments.

**It further developed in this case that, despite the broker's representations to the lender, he actually had knowledge to the contrary.**

Making an assertion in a positive manner when not warranted by the known information and facts can be a type of fraud. Fraud can involve civil and criminal liability, as well as the possibility of losing a license.

While in this particular case there was bad faith shown on the part of the broker, inasmuch as it appeared that he knew some of the statements he made were false, there are other cases where the broker or salesman has no knowledge of the facts and merely "dreams up" a story. **Therefore, if a licensee tells a client anything as a fact, he had better be sure that he is in a position to substantiate his statement.**

**Renew Licenses on Time  
Send Salesman Renewals  
With Employing Brokers'**

# New Rule Concerning Subdivision Deposits

## If No Arrangements Made for Security of Funds, Notice Given in Public Report

As announced in the March issue of the *Bulletin*, an opinion of the Attorney General invalidated Section 2792.1 and made pointless Section 2792.2 of the Real Estate Commissioner's Rules and Regulations. Section 2792.1 had required the subdivider to file with his subdivision questionnaire a verified statement in which he agreed to impound in a neutral depository deposit money received from prospective purchasers.

Under the agreement, these moneys could not be withdrawn for the use of the seller until delivery of title or other agreed interest to the purchaser. Shortly after receipt of the Attorney General's Opinion, the Real Estate Commissioner repealed Sections 2792.1 and 2792.2 of the Rules and Regulations and adopted a new section relating to security of deposits secured from purchasers in new subdivisions.

**Under the new rule, the subdivider or owner can voluntarily adopt one of several alternative methods of providing for the security of deposits.** If the subdivider or owner does not elect one of these methods, mention will be made in the Commissioner's Subdivision Public Report concerning the absence of arrangements for the security of deposits made by buyers or lessees, and the resulting risks assumed by such buyers or lessees. The text of the new rule follows:

**2792.5. Security of Deposits.** A notation will be made in the Subdivision Public Report concerning the ab-

sence of arrangements for the security of deposits made by buyers or lessees and the resulting risks assumed by such buyers or lessees, if one of the following alternative methods of providing for the security of deposits is not adopted by the subdivider or owner:

(a) The entire sum of money paid or advanced by the purchaser or lessee shall be deposited into an escrow depository acceptable to the Commissioner until the title or other interest contracted for is delivered.

(b) The title to the subdivision is to be held in trust under an agreement of trust acceptable to the Commissioner, which shall provide that the purchaser or lessee shall obtain his title or other interest contracted for upon payment of the agreed purchase price.

(c) There is conformance to such other alternative method which the Commissioner may deem acceptable to carry into effect the intent and provisions of this rule.

# Rental Rackets Curbed

## Commissioner Seeks Cooperation in Suppressing Agents Not Giving Service

The Real Estate Commissioner with the cooperation of other law enforcement agencies, better business bureaus and other organizations has waged a campaign against unprincipled rental agencies which have dealt unfairly with the public.

**In the main, these efforts have been successful. A number of rental agencies, ostensibly offering a service which they could not or would not provide, have closed their doors because of action taken by the commissioner and police authorities.**

Continued vigilance must be used to insure that these unfair rental schemes

do not again flourish. Cooperation of all real estate brokers and organizations is invited, in calling to the commissioner's attention any cases in which seekers of living quarters have been treated unfairly.

The racketeering rental operator gives the legitimate rental business a "black eye" and everyone engaged in real estate who wishes the business to have the public respect it deserves should be happy to cooperate — and that cooperation is asked.

Many rental agencies are rendering a fine public service and are needed in the scheme of things. **The good name to which legitimate and conscientious rental agencies are entitled deserves protection from the actions of unscrupulous operators in the field.**

# Watch Your Listing Language

## Faulty Wording of Commission Clause May Cause Broker to Lose Earnings

We have heard brokers boast that they prepare their own listing contracts. This is all very well, but unless they are particularly skilled along this line it may be a very expensive undertaking. For instance, a broker recently lost a commission of \$13,500 because of some rather unusual language in the commission agreement used by the broker. It provided for the commission to be paid when the owner "disposed" of the property.

### *Buyer Takes Possession*

Roughly, these are the details. The broker found a buyer who signed a deposit receipt and paid \$1,500 deposit, the deal being put into escrow. The seller allowed the buyer to take possession, but the buyer never paid anything more on the deal other than the initial deposit.

Several months went by, and finally the buyer and seller mutually agreed to cancel the transaction.

The broker sued the seller for his commission, claiming that the transaction had been completed and the owner had no right to release the buyer insofar as the broker's right to a commission was concerned. **This might be true in the usual run of transactions, but in this case the court carefully considered the meaning and intent of the word "disposed."**

### *Court Construes Meaning*

The broker claimed the owner "disposed" of the property by executing escrow instructions, giving possession, and extending the time for completion of the transaction. The Appellate Court held that apparently the parties intended that the words "dispose of" should be synonymous with the word "consummate." As "consummate" means to bring to a completion, the transaction was not completed and the commission was not earned.

If the broker had used a tested standard listing contract, he might have been money ahead. (*Bieg v. Shamel*, 129 A.C.A. 815)

## License Applicants Will Be Required to Furnish Photos

Passport size photographs may be required of all applicants for original license in the near future. The Commissioner is drafting an official rule and regulation to this effect intended to become operative about July 15th.

The rule would provide that no applicant for original license will be allowed to take the examination for that license until the applicant's photograph, in the designated size, is furnished to the Division.

Photographs of license applicants will be valuable to the Division for identification and investigation purposes. Several states, with many fewer licensees than California, have required photographs of applicants for some time.

License law officials in these states report favorable results and, so, the Real Estate Commissioner, with the advice and approval of the State Real Estate Board, is taking the necessary steps to adopt the rule in this State.

## U. C. Extension Division to Offer New Courses in Oakland

The University Extension, University of California, is constantly working on the development of new courses to add to its Real Estate Certificate Program, as needs develop in particular areas. As an example, Duncan Campbell, University Extension Coordinator, states that two new courses will be offered in Oakland for the first time this fall.

One is "Commercial Investment Properties," a course presented successfully in San Francisco during the past year. The other new course is "Residential Construction and Design," first given in Southern California.

If you are interested in real estate courses offered by University Extension, University of California, in its Real Estate Certificate Program, get in touch with your local real estate board or with University Extension offices located at 540 Powell St., San Francisco, and 813 S. Hill Street, Los Angeles.

## Subdivision Regulations

### Lending Institutions Wary of Advances Without Full Compliance With Requirements

Lending institutions, which finance the construction of homes in subdivisions where the provisions of the law have not been complied with, may find themselves faced with difficulties.

Commissioner Watson suggests any lending institution which undertakes to finance homes built in either a new or old tract should satisfy itself that the subdivider has complied with all provisions of the law. **The courts have held in certain instances that transactions between the home buyer and the subdivider in tracts where there has not been compliance with the subdivision laws may be rescinded. In one leading case, the court held that the transaction, under certain conditions, was void.**

Usually lending institutions exercise due care in connection with financing construction in new tracts, but they are not always aware that subdivision requirements may be applied to old tracts which are revived under certain conditions. This is particularly true when a subdivider-builder acquires a block of lots in an old recorded tract, even though they are not necessarily contiguous.

The Attorney General's office has informally advised the commissioner

that, when a builder-developer acquires a number of lots in an old tract for the purpose of building homes as a planned project, he is subject to the provisions of Sections 11000-11020 of the Business and Professions Code and must file a notice of intention with the commissioner. After this is done, the commissioner may waive the filing of a formal questionnaire, or may require the filing with all the supplemental documents.

Recently, a builder bought over 100 lots in an old tract and, through a predetermined plan, improved them with homes for sale. These were financed by a building and loan institution. No Notice of Intention was filed by the builder. The matter came to the commissioner's attention and he advised licensees engaged in the sales that there might be a violation. As a result, the sales agent discontinued his activities.

**Usually, if everything is in order in connection with such a project, there is little time, expense or delay involved. Lending institutions which finance such ventures should make sure that the developer has notified the commissioner of his plans.**

### More About Those Deposits When Counter Offer Is Rejected Deposit Is to Be Returned to Buyer

A more or less common complaint received by the Commissioner's office is made by a seller who had refused an offer.

Here is a typical instance. The broker had listed the property at \$30,000, with a \$10,000 down payment. He submitted a signed offer for \$27,500, with \$6,000 down. The seller refused this, but countered with an offer whereby he would accept \$25,000 cash. The prospective buyer could not meet this counter offer and refused it. The broker returned the buyer's \$500 deposit. The property owner complained that the broker had no right to return the deposit; claim-

ing one-half of it should have been paid to him.

This brings up some elementary rules regarding the offer and acceptance. **The making of a counter offer by a seller is, in effect, a rejection of the buyer's offer, and leaves the buyer in a position where he can withdraw from further negotiations.** It further follows that he is entitled to refund of any good faith deposit he has made with the seller or seller's agent. The broker in this case acted properly in making the refund, and the seller was so advised.

While this particular case was a simple one, more often than not there are various other ramifications to the negotiations. These, in some cases, might alter the general rule. **So again we say to the broker, when in doubt get your attorney's advice.**

### Newspaper Publicity

(Continued from page 185)

Division of Real Estate, finds from the facts presented at a formal hearing that the licensee has violated the provisions of the Real Estate Law. Even then, the licensee who suffers disciplinary action is entitled to petition for reconsideration or to appeal to the courts.

All along, the accused is considered innocent until the decision imposing disciplinary action is affirmed by the courts.

The vast majority of real estate people do not transgress the law under which they operate, and are zealous in endeavoring to fulfill their fiduciary obligations. The transgressor—the violator—knows or should know the chance he is taking. Not only is his license in jeopardy when he violates the law, but he can suffer the glaring light of widespread publicity and do great and unjustified harm to an honored profession.

The Commissioner and most licensees dislike unfavorable publicity, yet many believe that it does not damage the industry in the eyes of the public. Rather, public confidence in the industry is enhanced when it is made clear that the licensed real estate broker or salesman must operate in accordance with the law or suffer the consequences. Following this reasoning, the Commissioner is continually pointing out that it is safer for the public to buy or sell property through a well-qualified real estate broker with a good reputation than it is to attempt to deal direct.

D. D. WATSON, Commissioner

## Raises Down Payment Through Refinancing

### When Done Without Seller's Knowledge, Agent's License Is Hazarded

What appears to be an unfair and misleading practice in the sale of property was brought to the Real Estate Commissioner's attention recently, and as a result hearings have been scheduled with view to revoking offenders' licenses.

By the use of evasive language in the sales contracts and escrow instructions, certain sellers of property have been deluded into believing that they are securing substantial down payments from purchasers, whereas the truth is that the purchaser puts up very little or no money, the cash down payment being secured through an inflated first trust deed note.

#### Deception in Wording

In one particular case, the purchaser put up only \$1,500 on the purchase of a \$70,000 property. An additional \$8,000 was secured by refinancing the first trust deed. Although the seller signed the necessary instructions to permit this, they were so worded that he did not realize what he was doing.

**Strangely enough, many sellers of property do not fully understand the nature of secondary liens and the hazards sometimes attending them. Such property owners are subject to being victimized by this unconscionable practice.**

Some cases have come to the Commissioner's attention wherein trusting elderly or inexperienced persons have been induced to permit a first trust deed to be put on their clear property to raise the down payment. They were then given a second trust deed

for the balance of the purchase price, the new owner having no investment in the property. The broker's commission was paid from funds secured through the ballooned financing.

The Commissioner advises that, if there are any signs of misrepresentation or deception in connection with such sales, the offending licensees may expect to face charges at a formal hearing.

**The seller is entitled to know exactly how much cash the buyer is investing in the property being sold.** Not many sellers would want to pass title to a valuable property in which the buyer has made little or no investment, if they realized there were doing so. It leads to a situation whereby the buyer could easily collect the benefits from the property for a rather long period of time, and cost the seller much time and expense in regaining title.

### License Law for South Dakota

South Dakota became the forty-first state with a real estate license law when Governor Joe J. Foss recently signed a bill marking final enactment of the law.

The South Dakota Association of Realtors has been pressing for a license law for the past eight years.

**Recap Fees in  
Letter of Transmittal  
When Renewing  
More Than One License**

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